

AMENDED IN SENATE JUNE 28, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

AMENDED IN ASSEMBLY MARCH 19, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 7

Introduced by Assembly Members Lieu and Saldana
(Coauthors: Assembly Members Beall, Horton, Huff, Jeffries, Laird,
and Wolk)

December 4, 2006

An act to add Sections ~~22345~~ 1241, 14960, 22345, and 23038 to the Financial Code, *and to amend Section 394 of the Military and Veterans Code*, relating to consumer loans, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 7, as amended, Lieu. ~~Armed-service~~ *services* members: consumer loans.

The California Finance Lenders Law provides, among other things, for the licensure and regulation by the Commissioner of Corporations of persons engaged in the business of making consumer loans and governs the terms that may be included in those loans. The California Deferred Deposit Transaction Law provides for the licensure and regulation by the commissioner of persons engaged in the business of making or negotiating deferred deposit transactions, which are transactions in which the lender defers depositing a consumer's personal check until a specified date pursuant to a written agreement. A willful violation of either the California Finance Lenders Law or the California Deferred Deposit Transaction Law is a crime.

This bill would require any bank or credit union that makes a refund anticipation loan to a covered borrower, as defined, to comply with specified provisions of federal law relating to terms of consumer credit extended to armed services members and dependents of armed services members. The bill would, on and after October 1, 2007, make it unlawful under the California Finance Lenders Law and the California Deferred Deposit Transaction Law to violate specified provisions of the John Warner National Defense Authorization Act for Fiscal Year 2007, relating to the Armed Forces. Because this bill would make a willful violation of those provisions a crime, it would impose a state-mandated local program.

Existing law provides that any person who violates specified provisions prohibiting discrimination against a member of the military or naval forces of this state or the United States, including discrimination with respect to the terms of a loan or financing based on that person's membership in the military or naval forces of this state or of the United States, is guilty of a misdemeanor.

This bill would exempt from the discrimination provisions, with respect to loans and transactions covered by the John Warner National Defense Authorization Act for Fiscal Year 2007, any person who does not market or extend consumer loans to ~~armed services members~~ *specified covered borrowers*, and any person who does not market deferred deposit transactions to, or enter into such transactions with, ~~armed services members~~ *specified covered borrowers*.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1241 is added to the Financial Code, to
- 2 read:
- 3 1241. (a) Any bank that makes a refund anticipation loan to
- 4 a covered borrower, as defined in regulations adopted pursuant

1 to Section 670 of Public Law 109-364, shall comply with the
2 provisions of that law and those regulations pertaining to refund
3 anticipation loans.

4 (b) With respect to any refund anticipation loan covered by
5 Section 670 of Public Law 109-364 and the regulations adopted
6 thereunder, a person that does not market or extend those loans
7 to covered borrowers shall not be in violation of Section 394 of
8 the Military and Veterans Code.

9 (c) This section shall be operative only if regulations adopted
10 pursuant to Section 670 of Public Law 109-364 include refund
11 anticipation loans in the definition of consumer credit thereunder.

12 SEC. 2. Section 14960 is added to the Financial Code, to read:

13 14960. (a) Any credit union that makes a refund anticipation
14 loan to a covered borrower, as defined in regulations adopted
15 pursuant to Section 670 of Public Law 109-364, shall comply with
16 the provisions of that law and those regulations pertaining to
17 refund anticipation loans.

18 (b) With respect to any refund anticipation loan covered by
19 Section 670 of Public Law 109-364 and the regulations adopted
20 thereunder, a person that does not market or extend those loans
21 to covered borrowers shall not be in violation of Section 394 of
22 the Military and Veterans Code.

23 (c) This section shall be operative only if regulations adopted
24 pursuant to Section 670 of Public Law 109-364 include refund
25 anticipation loans in the definition of consumer credit thereunder.

26 SECTION 1.

27 SEC. 3. Section 22345 is added to the Financial Code, to read:

28 22345. (a) Any person who violates any provision of Section
29 670 of the John Warner National Defense Authorization Act for
30 Fiscal Year 2007 (Public Law 109-364) or any regulation
31 promulgated adopted thereunder, violates this chapter.

32 (b) With respect to any consumer loans covered by Section 670
33 of the John Warner National Defense Authorization Act for Fiscal
34 Year 2007 (Public Law 109-364) or by any regulation adopted
35 under that act, a person that does not market consumer loans to,
36 or does not extend those loans to, ~~armed services members~~ covered
37 borrowers, as that term is defined under regulations adopted
38 pursuant to Section 670 of Public Law 109-364, shall not be in
39 violation of Section 394 of the Military and Veterans Code.

40 (c) This section shall become operative on October 1, 2007.

1 ~~SEC. 2.~~

2 *SEC. 4.* Section 23038 is added to the Financial Code, to read:

3 23038. (a) Any person who violates any provision of Section
4 670 of the John Warner National Defense Authorization Act for
5 *Fiscal Year 2007* (Public Law 109-364) or any regulation
6 ~~promulgated~~ *adopted* thereunder, violates this division.

7 (b) With respect to any deferred deposit transactions covered
8 by Section 670 of the John Warner National Defense Authorization
9 Act for *Fiscal Year 2007* (Public Law 109-364) or by any
10 regulation adopted under that act, a person that does not market
11 deferred deposit transactions to, or does not enter into those
12 transactions with, ~~armed services members~~ *covered borrowers, as*
13 *that term is defined under regulations adopted pursuant to Section*
14 *670 of Public Law 109-364*, shall not be in violation of Section
15 394 of the Military and Veterans Code.

16 (c) This section shall become operative on October 1, 2007.

17 *SEC. 5. Section 394 of the Military and Veterans Code is*
18 *amended to read:*

19 394. (a) No person shall discriminate against any officer,
20 warrant officer or enlisted member of the military or naval forces
21 of the state or of the United States because of that membership.
22 No member of the military forces shall be prejudiced or injured
23 by any person, employer, or officer or agent of any corporation,
24 company, or firm with respect to that member's employment,
25 position or status or be denied or disqualified for employment by
26 virtue of membership or service in the military forces of this state
27 or of the United States.

28 (b) No officer or employee of the state, or of any county, city
29 and county, municipal corporation, or district shall discriminate
30 against any officer, warrant officer or enlisted member of the
31 military or naval forces of the state or of the United States because
32 of that membership. No member of the military forces shall be
33 prejudiced or injured by any officer or employee of the state, or
34 of any county, city and county, municipal corporation, or district
35 with respect to that member's employment, appointment, position
36 or status or be denied or disqualified for or discharged from that
37 employment or position by virtue of membership or service in the
38 military forces of this state or of the United States.

39 (c) No person shall prohibit or refuse entrance to any officer or
40 enlisted member of the Army or Navy of the United States or of

1 the military or naval forces of this state into any public
2 entertainment or place of amusement or into any of the places
3 described in Sections 51 and 52 of the Civil Code because that
4 member wears the uniform of the organization to which he or she
5 belongs.

6 (d) No employer or officer or agent of any corporation,
7 company, or firm, or other person, shall discharge any person from
8 employment because of the performance of any ordered military
9 duty or training or by reason of being an officer, warrant officer,
10 or enlisted member of the military or naval forces of this state, or
11 hinder or prevent that person from performing any military service
12 or from attending any military encampment or place of drill or
13 instruction he or she may be called upon to perform or attend by
14 proper authority; prejudice or harm him or her in any manner in
15 his or her employment, position, or status by reason of performance
16 of military service or duty or attendance at military encampments
17 or places of drill or instruction; or dissuade, prevent, or stop any
18 person from enlistment or accepting a warrant or commission in
19 the California National Guard or Naval Militia by threat or injury
20 to him or her in respect to his or her employment, position, status,
21 trade, or business because of enlistment or acceptance of a warrant
22 or commission.

23 (e) (1) No private employer or officer or agent of any
24 corporation, company, or firm, or other person, shall restrict or
25 terminate any collateral benefit for employees by reason of an
26 employee's temporary incapacitation incident to duty in the
27 National Guard or Naval Militia. As used in this subdivision,
28 "temporary incapacitation" means any period of incapacitation of
29 52 weeks or less.

30 (2) As used in this subdivision, "benefit" includes, but is not
31 limited to, health care which may be continued at the employee's
32 expense, life insurance, disability insurance, and seniority status.

33 (f) No person who provides lending or financing shall
34 discriminate against any person with respect to the terms of a loan
35 or financing, including, but not limited to, the finance charge,
36 based on that person's membership in the military or naval forces
37 of this state or of the United States. *With respect to any loan or*
38 *credit transaction covered by Section 670 of Public Law 109-364*
39 *and the regulations adopted thereunder, a person that does not*
40 *market or extend those transactions to covered borrowers shall*

1 *not be in violation of this section. For purposes of this section, a*
2 *covered borrower has the same meaning as provided for in the*
3 *regulations adopted pursuant to Section 670 of Public Law*
4 *109-364.*

5 (g) Any person violating this section is guilty of a misdemeanor.
6 In addition, any person violating any of the provisions of this
7 section shall be liable for actual damages and reasonable attorney's
8 fees incurred by the injured party.

9 (h) The remedies provided for in this section are not intended
10 to be exclusive but are in addition to the remedies provided for in
11 other laws, including Sections 51 and 52 of the Civil Code.

12 ~~SEC. 3.~~

13 SEC. 6. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

22 ~~This~~

23 SEC. 7. *This act is an urgency statute necessary for the*
24 *immediate preservation of the public peace, health, or safety within*
25 *the meaning of Article IV of the Constitution and shall go into*
26 *immediate effect. The facts constituting the necessity are:*

27 In order to protect armed service members and their families at
28 the earliest possible time, it is necessary that this act take effect
29 immediately.